

the program elements of the State program.

EPA received one comment during the 60-day comment period. The commenter agreed with the Agency's position. No request for a public hearing was received.

EPA is required to issue a notice in the Federal Register announcing its decision to grant or deny a request for waiver within 30 days after the close of the comment period. The comment period for this docket closed on January 30, 1995. The 30-day review period may be extended if mutually agreed upon by EPA and the State. EPA and Colorado mutually agreed to extend the review period.

The remainder of this document is divided into two units. The first unit discusses the Colorado program and sets forth the reasons and rationale for EPA's decision on the State's waiver request. Unit I. is subdivided into two sections. Section A discusses key elements of the State's program. Section B gives EPA's final approval of the waiver. The second unit of this document discusses statutory requirements of the Paperwork Reduction Act.

I. The Colorado Program

A. Program Elements

The Colorado Regulation 8 (Part B, Emission Standards for Asbestos) give the Colorado Department of Public Health and Environment (CDPHE) the authority to regulate asbestos in schools and commercial buildings. The State's regulations adopt by reference the AHERA regulations at 40 CFR part 763, subpart E effective when an AHERA waiver is approved by EPA. The State has the enforcement mechanism to allow it to implement the program. The State has EPA-approved Neutral Administrative Inspection Scheme (NAIS), logging system for tracking tips, complaints, etc., and an enforcement response policy in place. The State has qualified personnel to carry out the provision relating to the waiver. The program will be administered by the CDPHE.

Since the State application for a waiver was received, EPA published a revision to its Asbestos Model Accreditation Plan (MAP). The Asbestos Model Accreditation Plan; Interim Final Rule was published on February 3, 1994 (59 FR 5236). This MAP required that each State adopt an accreditation plan that is at least as stringent as this MAP within 180 days after the commencement of the first regular session of the legislature of the State that is convened on or after April 4,

1994. The CDPHE has not submitted copies of the State's revised regulations. Therefore, the State's regulations are not final at this time.

B. EPA's Decision on Colorado's Request for Waiver

EPA grants the State of Colorado a partial waiver from the requirements of 40 CFR part 763, subpart E, effective 30 days after publication of this Final Decision. This waiver includes all AHERA requirements except the MAP. EPA will amend the AHERA waiver to include the MAP when the State's MAP regulations become final. Federal jurisdiction shall be in effect in the period between the date of publication of this document and the effective date. This will assure that the State has sufficient time to prepare to assume its new responsibilities. It will also assure the public that no gap in authority occurs, and gives the public sufficient notice of the transfer of duties from EPA to the State of Colorado. This waiver is applicable to all schools and public and commercial buildings covered by AHERA in the State and is subject to rescission under 40 CFR 763.98(j) based on periodic EPA oversight evaluation and conference with the State in accordance with 40 CFR 763.98(h) and 763.98(i).

II. Other Statutory Requirements

The reporting and recordkeeping provisions relating to State waivers from the requirements of the Asbestos-Containing Materials in Schools Rule (40 CFR part 763) have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act and have been assigned OMB control number 2070-0091.

List of Subjects in 40 CFR Part 763

Environmental protection, Asbestos, Asbestos in schools (AHERA), Hazardous substances, Reporting and recordkeeping requirements, State and local governments, Worker protection.

Dated: September 20, 1995.

William Yellowtail,

Regional Administrator, Region 8.

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40 CFR Parts 766 and 799

[OPPTS0940028; FRL094956093]

Technical Amendments to Test Rules and Consent Orders

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA has approved by letter certain modifications to test standards and schedules for chemical testing programs under section 4 of the Toxic Substances Control Act (TSCA). These modifications, requested by test sponsors, will be incorporated and codified in the respective test regulation or consent order. Because these modifications do not significantly alter the scope of a test or significantly change the schedule for its completion, EPA approved these requests without seeking notice and comment. EPA annually publishes a notice describing all of the modifications granted by letter for the previous year.

EFFECTIVE DATE: This rule is effective on September 29, 1995.

FOR FURTHER INFORMATION CONTACT:

Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. E09543B, 401 M St., SW., Washington, DC 20460, (202) 554091404, TDD (202) 554090551, Internet: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a rule published in the Federal Register of September 1, 1989 (54 FR 36311), amending procedures for modifying test standards and schedules for test rules and testing consent orders under section 4 of TSCA. The amended procedures allow EPA to approve requested modifications which do not alter the scope of a test or significantly change the schedule for its completion. These modifications are approved by letter without public comment. The rule also requires immediate placement of these letters in EPA's public files and publication of these modifications in the Federal Register. This document includes modifications approved from January 1, 1994, through December 31, 1994. For a detailed description of the rationale for these modifications, refer to the submitters' letters and EPA's responses in the public record for this rulemaking.

I. Discussion of Modifications

Each chemical discussed in this rule is identified by a specific CAS number and docket number. Copies of correspondence relating to specific chemical modifications may be found in docket number (OPPTS0940028) established for this rule. The following table lists all chemical-specific modifications approved from January 1, 1994, through December 31, 1994.

MODIFICATIONS TO TEST STANDARDS AND CONSENT ORDERS JANUARY 1, 1994 THROUGH DECEMBER 31, 1994

Chemical/CAS Number	Chemical FR Cite	Test	Modifications	Docket No.
Final Rule Chemicals				
Dioxins.				
Pentabromodiphenyloxyde	766.35	Analytical testing	5	40028/83002M
Octabromodiphenyloxyde	766.35	Analytical testing	5	40028/83002M
Tetrabromobisphenol-A	766.35	Analytical testing	5	40028/83002M
Decabromodiphenyloxyde	766.35	Analytical testing	5	40028/83002M
2,3,5,6-tetrachloro-2,5-cyclohexadiene-1,4-dione. 1,2-bis(tribromophenoxy)ethane	766.35	Analytical testing	5	40028/83002M
Isopropanol	799.2325	Vapor inhalation oncogenicity study in rats	5	40028/42097B
Office of Drinking Water.				
Chloroethane	799.5075	Subacute and subchronic testing	5	40028/42111F
1,1-dichloroethane	799.5075	Subacute and subchronic testing	5	40028/42111F
1,1,2,2-tetrachloroethane	799.5075	Subacute and subchronic testing	2, 5	40028/42111F
1,3,5-trimethylbenzene	799.5075	Subacute and subchronic testing	5	40028/42111F
Consent Order Chemicals				
Refractory ceramic fibers	799.5000	Submission of raw data by June 29, 1994; submission of report with data analysis by July 18, 1994; bi-annual meeting rescheduled for August 12, 1994..	3	40028/42166B
Sodium cyanide	799.5000	Plant uptake and translocation study	5	40028/42118

Modifications

1. Modify sampling schedule.
2. Change to test substance (form/purity).
3. Change in non-critical test procedure or condition.
4. Add satellite group for further testing.
5. Extend test or protocol deadline, delete test initiation date.
6. Clarify and/or add specific guideline requirement.
7. Alternate specific guideline requirement approved for certain test(s).
8. CAS No. correction.
9. Test standard amendment.

Note: In §1A766.35(b)(4)(i) changes have been made to four existing chemicals and one new submitter is added to the table; however, for the convenience of the user, the entire table is being revised.

II. Public Record

EPA has established a public record for this rulemaking (Docket number OPPTS0940028). The record includes the information considered by EPA in evaluating the requested modifications.

The record is available for inspection from 12:00 noon to 4 p.m., Monday through Friday, except legal holidays, in Rm. NEB09607, 401 M St., SW., Washington, DC 20460.

III. Regulatory Assessment Requirements**A. Analyses Under E.O. 12866, and the Unfunded Mandates Act of 1995**

Because the modifications to the subject testing actions do not impose any additional requirements, this action is not "significant" within the meaning of Executive Order 12866 (58 FR 51735,

October 4, 1993), and does not impose any Federal mandate on any State, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), it has been determined that this action will not have a significant economic impact on a significant number of small entities.

C. Paperwork Reduction Act

The information collection requirements associated with this rule have been approved by OMB under the provisions of the Paperwork Reduction Act, 44 U.S.C 3501, and have been assigned OMB control number 2070-0033. EPA has determined that this rule does not change existing recordkeeping or reporting requirements nor does it impose any additional recordkeeping or reporting requirements.

List of Subjects**40 CFR Part 766**

Dibenzo-para-dioxins/dibenzofurans, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements.

40 CFR Part 799

Chemicals, Chemical export, Environmental protection, Hazardous substances, Recordkeeping and reporting requirements, Testing.

Dated: September 25, 1995.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR parts 766 and 799 are amended as follows:

1. In part 766:

PART 766—[AMENDED]

a. The authority citation for part 766 continues to read as follows:

Authority: 15 U.S.C. 2603 and 2607.

b. In §1A766.35, by revising paragraph (a)(2)(i)(B)(3), the table to paragraph (a)(2)(ii)(A), and the table to paragraph (b)(4)(i) and paragraph (f) to read as follows:

§1A766.35 Dibenzo-para-dioxins/dibenzofurans.

(a) ***

(2) ***

(i) ***

(B) ***

(3) The deadline for submitting protocols for pentabromodiphenyloxyde (CAS No. 325340981099) is February 6, 1995. The deadline for submitting tetrabromobisphenol-A-bisethoxylate (CAS No. 41260945092) is January 31, 1991.

* * * * *

(2) ***

(ii) ***

(A) ***

CAS No.	Submitter	Chemical	Due date
1180975092	Rhone-Poulenc	2,3,5,6-tetrachloro-2,5-cyclohexaniene-1,4-dione	March 4, 1994

* * * * *

(i) ***

(b) ***

(4) ***

CAS No.	Submitter	Chemical	Due Date	Effective Date
790994097	Great Lakes	Tetrabromobisphenol-A	May 26, 1992	May 28, 1993
790994097	Ethyl	Tetrabromobisphenol-A	August 10, 1992	May 28, 1993
790994097	Ameribrom	Tetrabromobisphenol-A	April 15, 1994	September 29, 1995
870910095	Pfister	3,4',5-tribromosalicylanilide	45 days after protocol approval	May 28, 1993
1180979096	Great Lakes	2,4,6-Tribromophenol	May 26, 1992	May 28, 1993
11630919095	Ameribrom	Decabromodiphenyloxide	April 15, 1994	September 29, 1995
11630919095	Ethyl	Decabromodiphenyloxide	May 26, 1992	May 28, 1993
11630919095	Great Lakes	Decabromodiphenyloxide	May 26, 1992	May 28, 1993
41620945092	Great Lakes	Tetrabromobisphenol-A-bisethoxylate	June 2, 1993	September 8, 1994
253270989093	Great Lakes	Allyl Ether of Tetrabromobisphenol-A	August 10, 1992	May 28, 1993
325340981099	Great Lakes	Pentabromodiphenyloxide	March 22, 1993	September 8, 1994
325340981099	Akzo Chemicals Inc.	Pentabromodiphenyloxide	February 6, 1995	September 29, 1995
325340981099	Ameribrom	Pentabromodiphenyloxide	March 22, 1993	September 8, 1994
325360952090	Ameribrom	Octabromodiphenyloxide	January 8, 1993	September 29, 1995
325360952090	Ethyl	Octabromodiphenyloxide	May 15, 1994	May 28, 1993
325360952090	Great Lakes	Octabromodiphenyloxide	May 26, 1992	May 28, 1993
378530959091	Great Lakes	1,2-bis(tribromophenoxy)ethane	January 24, 1995	September 29, 1995

* * * * *

(f) *Effective date.* (1) The effective date of this final rule is July 6, 1987, except for paragraphs (a)(2)(i)(B) introductory text, (a)(2)(i)(B)(1), (a)(2)(i)(B)(2), (a)(2)(i)(B)(3), (a)(2)(i)(B)(4), the table in paragraph (a)(2)(ii)(A), and the table in paragraph (b)(4)(i) of this section.

(2) The effective date for paragraph (a)(2)(i)(B) introductory text, (a)(2)(i)(B)(1), (a)(2)(i)(B)(2), and (a)(2)(i)(B)(4), is May 21, 1991. The effective date of paragraphs (a)(2)(i)(B)(3), and the table in paragraph (a)(2)(ii)(A) is September 29, 1995. The effective date of paragraph (b)(4)(i) introductory text is May 28, 1993, and the effective date of the entries in the table in paragraph (b)(4)(i) is shown in the effective dates column of the table.

(3) The guidelines and other test methods cited in this rule are referenced as they exist on the effective date of the final rule.

2. In part 799:

PART 799—[AMENDED]

a. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. In §1A799.2325 by revising paragraphs (c)(8)(ii)(A) and (d) to read as follows:

§1A799.2325 Isopropanol

* * * * *

(c) ***

(8) ***

(ii) *** (A) The oncogenicity test shall be completed and the final report submitted to EPA by July 5, 1994.

* * * * *

(d) *Effective date.* (1) The effective date of this final rule is December 4, 1989, except for the provisions of paragraphs (c)(5)(i)(C)(1), (c)(5)(ii)(A)(3), (c)(6)(i)(D), and (c)(8)(ii)(A), of this section. The effective date for paragraphs (c)(5)(i)(C)(1), and (c)(5)(ii)(A)(3) of this section is May 21, 1990. The effective date for paragraphs (c)(6)(i)(D) of this section is May 21, 1991. The effective date of paragraph (c)(8)(ii)(A) is September 29, 1995.

(2) The guidelines and other test methods cited in this rule are references as they exist on the effective date of the final rule.

c. In §1A799.5075 by revising paragraphs (a)(2), (c)(1)(ii)(A), (c)(1)(ii)(B), (c)(2)(ii)(A) and paragraph (d) to read as follows:

§1A799.5075 Drinking water contaminants subject to testing.

(a) ***

(2) A test substance of at least 99 percent purity shall be used for Chloroethane, 1,1-dichloroethane, and 1,3,5-trimethylbenzene. A test substance of at least 98 percent purity shall be used for 1,1,2,2-tetrachloroethane.

* * * * *

(c) ***

(1) ***

(ii) *** (A) The subacute testing for chloroethane shall be completed and the final report submitted to EPA by March 27, 1995. The subacute testing for 1,1-dichloroethane and 1,1,2,2-tetrachloroethane shall be completed and the final report submitted to EPA by April 27, 1995. The subacute testing for 1,3,5-trimethylbenzene shall be completed and the final report submitted to EPA by February 11, 1995.

(B) Except for 1,3,5-trimethylbenzene, a progress report shall be submitted to EPA for each test beginning 6 months after the date specified in paragraph (d)(1) of this section and at 609month intervals thereafter until the final report is submitted to EPA. The progress report for 1,3,5-trimethylbenzene shall be submitted to EPA by April 10, 1995.

(2) ***

(ii) * * * (A) The subchronic testing for chloroethane shall be completed and the final report submitted to EPA by June 27, 1995. The subchronic testing for 1,1-dichloroethane and 1,1,2,2-tetrachloroethane shall be completed and the final report submitted to EPA by August 27, 1995. The subchronic testing for 1,3,5-trimethylbenzene shall be completed and the final report submitted to EPA by April 10, 1995.

* * * * *

(d) *Effective date.* (1) This section is effective on December 27, 1993 except for paragraphs (a)(2), (c)(1)(ii)(A), (c)(1)(ii)(B), and (c)(2)(ii)(A). The effective date for paragraphs (a)(2), (c)(1)(ii)(A), (c)(1)(ii)(B), (c)(2)(ii)(A) is September 29, 1995.

(2) The guidelines and other test methods cited in this section are referenced as they exist on the effective date of the final rule.

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40 CFR Part 300

[FRL-5308-2]

National Priorities List for Uncontrolled Hazardous Waste Sites

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") which is appendix B of 40 CFR part 300, constitutes this list.

This rule adds 8 new sites to the NPL, 6 to the General Superfund Section and 2 to the Federal Facilities Section. The NPL is intended primarily to guide the Environmental Protection Agency ("EPA" or "the Agency") in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate.

EFFECTIVE DATE: The effective date for this amendment to the NCP shall be October 30, 1995.

ADDRESSES: For addresses for the Headquarters and Regional dockets, as well as further details on what these dockets contain, see "Information Available to the Public" in Section I of the "Supplementary Information" portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Terry Keidan, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (mail code 5204G), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460, or the Superfund Hotline, phone (800) 424-9346 or (703) 412-9810 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

- I. Introduction
- II. Contents of This Final Rule
- III. Executive Order 12866
- IV. Unfunded Mandates
- V. Governors' Concurrence

I. Introduction

Background

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601-9675 ("CERCLA" or "the Act"), in response to the dangers of uncontrolled hazardous waste sites. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law No. 99-499, stat. 1613 *et seq.* To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

Section 105(a)(8)(A) of CERCLA requires that the NCP include "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action * * * and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action." "Removal" actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases. 42 USC 9601(23). "Remedial" actions are those "consistent with permanent remedy,

taken instead of or in addition to removal actions * * *." 42 USC 9601(24).

Pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA has promulgated a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. That list, which is Appendix B of 40 CFR Part 300, is the National Priorities List ("NPL").

CERCLA section 105(a)(8)(B) defines the NPL as a list of "releases" and as a list of the highest priority "facilities." CERCLA section 105(a)(8)(B) also requires that the NPL be revised at least annually. A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). However, under 40 CFR 300.425(b)(2) placing a site on the NPL "does not imply that monies will be expended." EPA may pursue other appropriate authorities to remedy the releases, including enforcement action under CERCLA and other laws.

The purpose of the NPL is merely to identify releases that are priorities for further evaluation. Although a CERCLA "facility" is broadly defined to include any area where a hazardous substance release has "come to be located" (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases.

Further, the NPL is only of limited significance, as it does not assign liability to any party or to the owner of any specific property. See Report of the Senate Committee on Environment and Public Works, Senate Rep. No. 96-848, 96th Cong., 2d Sess. 60 (1980), quoted above and at 48 FR 40659 (September 8, 1983). If a party does not believe it is liable for releases on discrete parcels of property, supporting information can be submitted to the Agency at any time after a party receives notice it is a potentially responsible party.

Three mechanisms for placing sites on the NPL for possible remedial action are included in the NCP at 40 CFR 300.425(c). Under 40 CFR 300.425(c)(1), a site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System ("HRS"), which EPA promulgated as Appendix A of 40 CFR part 300. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: ground water, surface water, soil